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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,838	07/22/2003	Mark Coron	MWE280	6513

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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT PAPER NUMBER

3727

DATE MAILED: 11/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/623,838

Applicant(s)

CORON, MARK

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>7-22-03</u> . | 6) <input type="checkbox"/> Other: ____. |

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Riceman.

Riceman discloses a briefcase cover capable of covering a propane tank, the cover comprising first and second end walls (short sides of briefcase), a peripheral wall (top, bottom and long sides), the peripheral wall having an opening at the bottom, top opening (18d).

Claims 1 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by well known personal clothing such as jackets, work suit, sweat suit or overalls with a removable hood or removable top and an elastic gathering at the bottom opening.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson in view of Garofalo et al. (Garofalo).

Johnson discloses a tank cover for a elongated cylindrical propane tank that is oriented with its longitudinal axis being generally horizontal, it has two circular ends, a rectangular opening at the bottom and a circular opening at the top. Figure 1 discloses a two-piece cover with a separate hat shaped or hood cover for the top hatch protrusion and a main body cover that covers the main body but not the top hatch protrusion. The top opening surrounds the top hatch

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protrusion. It appears that the material of the tank cover is flexible from the gathering of the material as shown in Fig. 1-3 and 5.

Garofalo is applied should it be deemed that (1) the cover material isn't flexible and (2) that there is no top opening or bottom opening. Garofalo discloses a propane tank cover with a top protrusion, a top opening surrounding the top protrusion, a bottom opening for a bottom protrusion and the cover material is flexible fabric or film. It would have been obvious to modify the material to be flexible to provide easy attachment of the cover to the tank eliminating the need to make the cover in separate sections with different fasteners or attachment means. It would have been obvious to add top and bottom openings to provide easy attachment and removal of the cover when the material can't stretch sufficiently to provide a tight, snug fit.

Re the dimensional limitations of claims 3-5 and 10, the size of the cover is not shown. The cover would certainly correspond to the size of the tank. There is no criticality to the size or capacity of the tank. It would be obvious by design choice to select any desired size by optimizing the diameter to be 3-5 ft. and length to be 7-10 ft. to (1) provide the desired capacity and (2) select the desired length and width/diameter to fit in the smallest possible space or to size the tank and cover to a select sized space. There is no criticality to the size of the bottom opening. It would have been obvious by design choice to select opening dimensions close to but less than the length and diameter and therefore within the range of greater than 5 ft. for the length and between 2-4 ft. for the width in order to cover the perimeter portions without making the opening too small to make assembly and disassembly difficult.

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Re claim 7, the elastic member is not disclosed by Johnson. Garofalo teaches an elasticated neck portion 11. It would have been obvious to modify the perimeter edge of the bottom opening to be elastic to provide a snug fit.

Re claim 8, the removable fastening of the hat portion to the main body portion in the two-piece assembly shown in Fig. 1 is not disclosed in Johnson. Official notice is taken that hood to main body covers are well known such as for a personal clothing jacket with a detachable hood.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc